

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 05-10489-NMG

GLENN S. BATES,

Plaintiff

v.

TOWN OF HARWICH AND HARWICH
POLICE DEPARTMENT, CHRISTOPHER
KENDER, AND BARRY MITCHELL,

Defendants

DEFENDANT CHRISTOPHER KENDER
AND BARRY MITHCELL'S MOTION
TO CONTINUE TRIAL DATE

Now come the defendants, Christopher Kender and Barry Mitchell, and hereby move that this Court continue the trial date in this matter, presently scheduled for February 25, 2008, to March 24, 2008, on grounds that their counsel has a conflict. As further grounds therefor, said defendants state the following:

1. Counsel for Kender and Mitchell in the instant matter are also defense counsel in another matter pending before the U.S. District Court entitled Frances Wohlgemuth, et al. v. Town of Stoughton, et al., C.A. No. 06-11729-WGY (the "Wohlgemuth case").
2. The trial in the Wohlgemuth case began on January 31, 2008,¹ and is expected to last nine days. The trial will proceed on February 4, 5, 6, and 8 (with no court on February 1 or 7), then, due to conflicts with the schedules of the Court and various attorneys, will recess for two weeks and resume on Tuesday, February 26.

¹ A jury was empaneled on January 28, but the taking of evidence did not commence until January 31.

3. As such, counsel expects to be on trial in the Wohlgemuth case on February 26, and for some time thereafter, in conflict with the scheduled trial dates in the instant matter.
4. Therefore, counsel requests that the Court continue trial in this matter to March 24, 2008, continue the date for pre-trial filings to March 3, 2008, and continue the Pre-Trial Conference to March 18, 2008, or to other dates in March convenient to the Court.
5. Counsel further states that counsel for the plaintiff and for the co-defendant Town of Harwich have assented to this motion.

WHEREFORE, defendants Kender and Mitchell respectfully request that the Court allow the within motion.

DEFENDANTS,

CHRISTOPHER KENDER
AND BARRY MITCHELL,

By their attorneys,

/s/Jackie Cowin
Joseph L. Tehan, Jr. (BBO #494020)
Jackie Cowin (BBO# 655880)
Kopelman and Paige, P.C.
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CERTIFICATE OF SERVICE

I, Jackie Cowin, certify that the above document will be served upon any party or counsel of record who is not a registered participant of the Court's ECF system, upon notification by the Court of those individuals who will not be served electronically. /s/Jackie Cowin